

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

JEFFREY WADE YEXLEY, Petitioner, vs. ALEJANDRO REYES; MARTY JACKLEY, THE ATTORNEY GENERAL OF THE STATE OF SOUTH DAKOTA, Respondents.	1:24-CV-01010-ECS OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION IN FULL AND DISMISSING PETITION FOR WRIT OF HABEAS CORPUS
--	--

Petitioner, Jeffrey Wade Yexley, filed a pro se petition for writ of habeas corpus under 28 U.S.C. § 2254 seeking habeas relief. Doc. 1. Yexley also filed a motion for protective petition to stay and abey habeas action (Doc. 4), a motion to toll the AEDPA limitations period (Doc. 5), and a motion to amend petition for writ of habeas corpus (Doc. 9). The matter was referred to a United States Magistrate Judge under 28 U.S.C. § 636(b)(1)(B) and the District of South Dakota's Civil Local Rule of Practice 72.1.A.2(b), which designates to the magistrate judge the duty to prepare proposed findings and recommendations for the disposition of habeas petitions.

Magistrate Judge Mark A. Moreno submitted a report and recommended that Yexley's petition (Doc. 1) be dismissed without prejudice for failure to exhaust state court remedies. Doc. 10 at 4. Magistrate Judge Moreno also recommended that Yexley's motions to stay and abey (Doc. 4) and to toll the relevant limitations period (Doc. 5) be denied. Doc. 10 at 5. Finally, Magistrate Judge Moreno recommended that Yexley's motion to amend petition for writ of habeas corpus (Doc. 9) be denied as futile. Doc. 10 at 5. The time for objecting to the report and recommendation

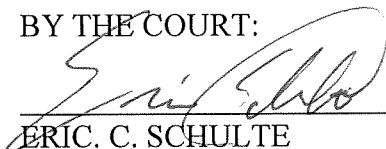
has passed. See id. No objections have been filed in this case. This Court has considered the case de novo and adopts the report and recommendation in full.

Thus, it is ORDERED:

1. That the Magistrate Judge's report and recommendation (Doc. 10) is adopted in full and Yexley's petition for writ of habeas corpus (Doc. 1) is dismissed without prejudice to allow him to exhaust his claims in state court.
2. That Yexley's motion to stay and abey (Doc. 4) is denied.
3. That Yexley's motion to toll the ADEPA limitations period (Doc. 5) is denied.
4. That Yexley's motion to amend petition for writ of habeas corpus (Doc. 9) is denied as futile.
5. That based upon the reasons set forth herein and pursuant to Fed. R. App. P. 22(b), the Court finds that the Yexley has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is denied.

DATED this 19 day of July, 2024.

BY THE COURT:



ERIC. C. SCHULTE
UNITED STATES DISTRICT JUDGE